

this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Food Security Act of 1985, referred to in subsec. (a), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. Subtitle D of title XII of the Act is classified generally to subchapter IV (§3830 et seq.) of chapter 58 of Title 16. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

#### CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### AMENDMENTS

2014—Subsec. (a). Pub. L. 113–79 inserted “title I of the Agricultural Act of 2014,” before “the Agricultural Market Transition Act”.

2008—Subsec. (a). Pub. L. 110–246, §1603(a), substituted “Food, Conservation, and Energy Act of 2008” for “Farm Security and Rural Investment Act of 2002”.

2002—Subsec. (a). Pub. L. 107–171 inserted “title I of the Farm Security and Rural Investment Act of 2002,” after “made available under”.

1996—Subsec. (a). Pub. L. 104–127 substituted “Any person” for “For each of the 1991 through 1997 crops, any person”, substituted “loans or payments made available under the Agricultural Market Transition Act,” for “production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.),”, and struck out “during the 1989 through 1997 crop years” before “, with respect to any commodity produced”.

1993—Subsec. (a). Pub. L. 103–66 substituted “1997” for “1995” in two places.

1990—Subsec. (a). Pub. L. 101–624 substituted “1991 through 1995 crops” for “1989 and 1990 crops” and inserted “, or under any contract entered into under title XII during the 1989 through 1995 crop years,” after “(16 U.S.C. 3831 et seq.)”.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–79 applicable beginning with the 2014 crop year, see section 1603(c) of Pub. L. 113–79, set out as a note under section 1308 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

#### EFFECTIVE DATE

Pub. L. 100–203, title I, §1306, Dec. 22, 1987, 101 Stat. 1330–19, provided that this section is effective beginning with the 1989 crops.

### § 1308–3a. Adjusted gross income limitation

#### (a) Definitions

##### (1) Average adjusted gross income

In this section, the term “average adjusted gross income”, with respect to a person or

legal entity, means the average of the adjusted gross income or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by the Secretary.

#### (2) Special rules for certain persons and legal entities

In the case of a legal entity that is not required to file a Federal income tax return or a person or legal entity that did not have taxable income in 1 or more of the taxable years used to determine the average under paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income of the person or legal entity for purposes of this section.

#### (3) Allocation of income

On the request of any person filing a joint tax return, the Secretary shall provide for the allocation of average adjusted gross income among the persons filing the return if—

(A) the person provides a certified statement by a certified public accountant or attorney that specifies the method by which the average adjusted gross income would have been declared and reported had the persons filed 2 separate returns; and

(B) the Secretary determines that the method described in the statement is consistent with the information supporting the filed joint tax return.

#### (b) Limitations on commodity and conservation programs

##### (1) Limitation

Notwithstanding any other provision of law, subject to paragraph (3), a person or legal entity shall not be eligible to receive any benefit described in paragraph (2) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross income of the person or legal entity exceeds \$900,000.

##### (2) Covered benefits

Paragraph (1) applies with respect to the following:

(A) A payment or benefit under subtitle A or E of title I of the Agricultural Act of 2014 [7 U.S.C. 9011 et seq., 9081].

(B) A marketing loan gain or loan deficiency payment under subtitle B of title I of the Agricultural Act of 2014 [7 U.S.C. 9031 et seq.].

(C) Starting with fiscal year 2015, a payment or benefit under title II of the Agriculture Improvement Act of 2018, title II of the Agricultural Act of 2014, title II of the Farm Security and Rural Investment Act of 2002, title II of the Food, Conservation, and Energy Act of 2008, or title XII of the Food Security Act of 1985 [16 U.S.C. 3801 et seq.].

(D) A payment or benefit under section 1524(b) of this title.

(E) A payment or benefit under section 7333 of this title.

##### (3) Waiver

The Secretary may waive the limitation established by paragraph (1) with respect to a

payment pursuant to a covered benefit described in paragraph (2)(C), on a case-by-case basis, if the Secretary determines that environmentally sensitive land of special significance would be protected as a result of such waiver.

**(c) Enforcement**

**(1) In general**

To comply with subsection (b), at least once every 3 years a person or legal entity shall provide to the Secretary—

(A) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the person or legal entity does not exceed the applicable limitation specified in that subsection; or

(B) information and documentation regarding the average adjusted gross income of the person or legal entity through other procedures established by the Secretary.

**(2) Denial of program benefits**

If the Secretary determines that a person or legal entity has failed to comply with this section, the Secretary shall deny the issuance of applicable payments and benefits specified in subsection (b)(2) to the person or legal entity, under similar terms and conditions as described in section 1308–2 of this title.

**(3) Audit**

The Secretary shall establish statistically valid procedures under which the Secretary shall conduct targeted audits of such persons or legal entities as the Secretary determines are most likely to exceed the limitations under subsection (b).

**(d) Commensurate reduction**

In the case of a payment or benefit described in subsection (b)(2) made in a crop, program, or fiscal year, as appropriate, to an entity, general partnership, or joint venture, the amount of the payment or benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each person who has an average adjusted gross income in excess of the applicable limitation specified in subsection (b).

(Pub. L. 99–198, title X, §1001D, as added Pub. L. 107–171, title I, §1604(2), May 13, 2002, 116 Stat. 215; amended Pub. L. 110–234, title I, §1604(a), May 22, 2008, 122 Stat. 1012; Pub. L. 110–246, §4(a), title I, §1604(a), June 18, 2008, 122 Stat. 1664, 1740; Pub. L. 113–79, title I, §1605(a)–(e), Feb. 7, 2014, 128 Stat. 707, 708; Pub. L. 115–334, title I, §1704(a), (b), Dec. 20, 2018, 132 Stat. 4526.)

REFERENCES IN TEXT

The Agricultural Act of 2014, referred to in subsec. (b)(2)(A) to (C), is Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 649. Subtitles A, B, and E of title I of the Act are classified principally to subchapter I (§9011 et seq.) and generally to subchapters II (§9031 et seq.) and IV (§9081), respectively, of chapter 115 of this title. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in Title 16, Conservation, and Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 9001 of this title and Tables.

The Agriculture Improvement Act of 2018, referred to in subsec. (b)(2)(C), is Pub. L. 115–334, Dec. 20, 2018, 132 Stat. 4490. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in this title, Title 16, Conservation, Title 33, Navigation and Navigable Waters, and Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 9001 of this title and Tables.

The Farm Security and Rural Investment Act of 2002, referred to in subsec. (b)(2)(C), is Pub. L. 107–171, May 13, 2002, 116 Stat. 134. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in this title, Title 16, Conservation, and Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 7901 of this title and Tables.

The Food, Conservation, and Energy Act of 2008, referred to in subsec. (b)(2)(C), is Pub. L. 110–246, June 18, 2008, 122 Stat. 1651. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in this title, Title 16, Conservation, and Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (b)(2)(C), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354. Title XII of the Act is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1001D of Pub. L. 99–198 was renumbered section 1001E and is classified to section 1308–4 of this title.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115–334, §1704(b), inserted “subject to paragraph (3),” after “provision of law,”.

Subsec. (b)(2)(C). Pub. L. 115–334, §1704(a)(1), inserted “title II of the Agriculture Improvement Act of 2018,” after “under”.

Subsec. (b)(3). Pub. L. 115–334, §1704(a)(2), added par. (3).

2014—Subsec. (a)(1). Pub. L. 113–79, §1605(b), amended par. (1) generally. Prior to amendment, par. (1) defined “average adjusted gross income”, “average adjusted gross farm income”, and “average adjusted gross nonfarm income”.

Subsec. (a)(2). Pub. L. 113–79, §1605(d)(1), struck out “subparagraph (A) or (B) of” after “average under” and “, the average adjusted gross farm income, and the average adjusted gross nonfarm income” after “average adjusted gross income”.

Subsec. (a)(3). Pub. L. 113–79, §1605(d)(2), struck out “, average adjusted gross farm income, and average adjusted gross nonfarm income” after “average adjusted gross income” in two places.

Subsec. (b). Pub. L. 113–79, §1605(a), substituted “Limitations on commodity and conservation programs” for “Limitations” in heading, added pars. (1) and (2), and struck out former pars. (1) and (2), which related to commodity programs and conservation programs, respectively.

Subsec. (c). Pub. L. 113–79, §1605(c), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to income determination.

Subsec. (c)(1). Pub. L. 113–79, §1605(d)(3)(A), struck out “, average adjusted gross farm income, and average

adjusted gross nonfarm income” after “average adjusted gross income” in subpars. (A) and (B).

Subsec. (c)(2). Pub. L. 113-79, §1605(d)(3)(B), substituted “subsection (b)(2)” for “paragraphs (1)(C) and (2)(B) of subsection (b)”.

Subsec. (d). Pub. L. 113-79, §1605(d)(4), substituted “subsection (b)(2)” for “paragraphs (1)(C) and (2)(B) of subsection (b)” and struck out “, average adjusted gross farm income, or average adjusted gross nonfarm income” after “average adjusted gross income”.

Pub. L. 113-79, §1605(c)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 113-79, §1605(e), struck out subsec. (e). Text read as follows: “This section shall apply only during the 2009 through 2012 crop, program, or fiscal years, as appropriate.”

Pub. L. 113-79, §1605(c)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 113-79, §1605(c)(2), redesignated subsec. (f) as (e).

2008—Pub. L. 110-246, §1604(a), amended section generally, substituting subsecs. (a) to (f) for former provisions which related to: in subsec. (a), definition of “average adjusted gross income”; in subsec. (b), limitation on benefits if average adjusted gross income exceeded \$2,500,000; in subsec. (c), certification that average adjusted gross income did not exceed limitation; in subsec. (d), reduction of benefits commensurate with ownership interest; and in subsec. (e), applicability of section during 2003 through 2007 crop years.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

#### TRANSITION PROVISIONS

Pub. L. 115-334, title I, §1704(c), Dec. 20, 2018, 132 Stat. 4526, provided that: “Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a), as in effect on the day before the date of enactment of this Act [Dec. 20, 2018], shall apply with respect to the 2018 crop, fiscal, or program year, as appropriate, for each program described in subsection (b)(2) of that section (as so in effect on that day).”

Pub. L. 113-79, title I, §1605(g), Feb. 7, 2014, 128 Stat. 708, provided that: “Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a), as in effect on the day before the date of the enactment of this Act [Feb. 7, 2014], shall apply with respect to the 2013 crop, fiscal, or program year, as appropriate, for each program described in paragraphs (1)(C) and (2)(B) of subsection (b) of that section (as so in effect on that day).”

Pub. L. 110-234, title I, §1604(b), May 22, 2008, 122 Stat. 1016, and Pub. L. 110-246, §4(a), title I, §1604(b), June 18, 2008, 122 Stat. 1664, 1744, provided that: “Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crop, fiscal, or program year, as appropriate, for each program described in paragraphs (1)(C) and (2)(B) of subsection (b) of that section (as amended by subsection (a)).”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

### § 1308-4. Education program

#### (a) In general

The Secretary shall carry out a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of county and State committees established under section 590h(b) of title 16, for the purpose of fostering

more effective and uniform application of the payment limitations and restrictions established under sections 1308 through 1308-3 of this title.

#### (b) Training

The education program shall provide training to the personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1308 through 1308-3 of this title.

#### (c) Administration

The State office of the Agricultural Stabilization and Conservation Service shall make the initial determination concerning the application of payment limitations and restrictions established under sections 1308 through 1308-3 of this title to farm operations consisting of more than 5 persons, subject to review by the Secretary.

#### (d) Commodity Credit Corporation

The Secretary shall carry out the program provided under this section through the Commodity Credit Corporation.

(Pub. L. 99-198, title X, §1001E, formerly §1001D, as added Pub. L. 101-624, title XI, §1111(g), Nov. 28, 1990, 104 Stat. 3499; renumbered §1001E, Pub. L. 107-171, title I, §1604(1), May 13, 2002, 116 Stat. 215.)

#### CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### PRIOR PROVISIONS

A prior section 1001E of Pub. L. 99-198 was renumbered section 1001F and is classified to section 1308-5 of this title.

#### EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

### § 1308-5. Treatment of multiyear program contract payments

#### (a) In general

Notwithstanding any other provision of law, in the event of a transfer of ownership of land (or an ownership interest in land) by way of devise or descent, the Secretary of Agriculture may, if the new owner succeeds to the prior owner's contract entered into under title XII,<sup>1</sup> make payments to the new owner under such contract without regard to the amount of payments received by the new owner under any contract entered into under title XII<sup>1</sup> executed prior to such devise or descent.

#### (b) Limitation

Payments made pursuant to this section shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

<sup>1</sup> See References in Text note below.